

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed October 19, 2005. Through this response, no claims have been amended. Claims 4, 27 and 32 have been previously canceled. Claims 1-3, 5-26, 28-31 and 33-38 remain pending. Reconsideration and allowance of the application and pending claims are respectfully requested.

#### **I. Drawing Amendments in Prior Response**

Applicants note that amendments to the drawings were submitted with the previously filed response and were not acknowledged as having been accepted in the current Office Action. Applicants respectfully request acknowledgment that the drawings have been received and accepted.

#### **II. Claim Rejections - 35 U.S.C. § 103(a)**

##### **A. Rejection of Claims 1-10, 14-33 and 36-38**

Claims 1-3, 5-10, 14-22, 25, 26, 28-31, 33 and 36-38 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz et al.* ("Herz," U.S. Pat. No. 6,088,722) in view of *Arai et al.* ("Arai," U.S. Pub. No. 2002/0073425), and further in view of *Blonstein et al.* ("Blonstein," U.S. Pat. No. 5,978,043). Claims 11-13 and 34-35 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and further in view of *Maze et al.* ("Maze," U.S. Pat. No. 6,216,264). Claim 23 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and *Blonstein*, in view, as applied to claim 1 above, and further in view of *Tanaka et al.* ("Tanaka," U.S. Pat. No. 4,393,502). Claim 24 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and *Blonstein*, as applied to claim 1 above, and further in view of *Inoue et al.* ("Inoue," U.S. Pat. No. 5,729,280). Applicants respectfully traverse these rejections.

## **B. Discussion of the Rejection**

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant’s disclosure.

In the present case, is respectfully asserted that a *prima facie* case for obviousness has not been established.

### **Independent Claim 1**

Claim 1 recites (with emphasis added):

A media system, comprising:  
a memory to store media information characterizing media; and  
a processor configured by the memory to provide a user interface to enable a user to define a media presentation from the media information, wherein the processor is further configured by the memory to continually and automatically segue media stream changes among a plurality of the media streams containing the media to present the user defined media presentation, *wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation the presentation order of the media corresponding to the media presentation defined by the user.*

Applicants respectfully submit that the combination of *Herz* in view of *Arai*, and further in view of *Blonstein*, does not disclose, teach or suggest the emphasized features. On page 6 of the Office Action, the following is asserted:

The combination of *Herz* in view of *Arai* discloses displaying programming on channels in advance of time corresponding to the media presentation (see *Arai* fig. 9) but fails to disclose the claimed wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation the presentation order of the media corresponding to the media presentation defined by the user.

*Office Action, page 6. (Underline in original.)*

It is further asserted that:

*Blonstein* teaches a TV graphical EPG system which provides customized lists of programming. *Blonstein* teaches providing favorite list of channels where in the TV GUI allows TV channels to be put in a customized list in order of their priority established by the user.

*Office Action, page 6.*

Applicants respectfully disagree with this characterization of *Blonstein*.

A prioritized list of favorite channels is not the same as a customized list of programming. In the Abstract of *Blonstein*, the following is recited:

A TV graphical user interface (GUI) is provided in a satellite TV system to enable users to create customized channel lists.

*Blonstein* further recites:

The oval indicator 816 shows that the channel changes 800 in FIG. 16 represents the favorite list or TV channels.

*Column 12, lines 48-49.*

And still further, *Blonstein* recites:

... the TV GUI allows TV channels to be put in a customized list in order of their priority established by the user. For

example, the most favorable channels may be placed at the top of a favorite list.

*Column 12, lines 54-58.*

Applicants respectfully submit that a customized or prioritized channel list is not the same as a ***presentation order*** of the media corresponding to the media presentation anymore than a favorite list of movies, songs or TV shows is a ***presentation order*** of the media corresponding the media presentation. Applicants further submit that the favorite list that is prioritized in *Blonstein* is not a ***presentation order*** as required by independent claim 1. Thus, prioritizing a list of favorite channels is not the same as prioritizing a ***presentation order*** of the media corresponding to the media presentation.

Even if, assuming *arguendo*, the combination of *Herz* and *Arai* discloses displaying programming on channels in advance of time corresponding to the media presentation, and even if, assuming *arguendo*, *Blonstein* teaches providing a favorite list of channels to be put in a customized list in order of user established priority, the combination of *Herz*, *Arai* and *Blonstein* fail to disclose, teach or suggest ***wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation the presentation order of the media corresponding to the media presentation defined by the user***, as recited in independent claim 1. Applicants respectfully request that the rejection to independent claim 1 be withdrawn.

Because independent claim 1 is allowable over the proposed combination, dependent claims 2, 3 and 5-25 are allowable as a matter of law for at least the reason that the dependent claims 2, 3 and 5-25 contain all elements of the respective base claim. See, *e.g., In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Independent claim 26**

Claim 26 recites (with emphasis added):

A method for presenting a user-defined media presentation, the method comprising:

providing a user interface to a user to receive user definition of media information, wherein the media information characterizes media for the media presentation, wherein providing comprises providing a plurality of

screen displays for receiving user input that defines the media presentation with increasing detail;

searching for the media corresponding to the user-defined media information among a plurality of media streams;

automatically segueing media stream changes among the plurality of media streams to present the media corresponding to the user-defined media information; and

***providing at least one of the plurality of the screen displays for enabling the user to prioritize in advance of a time corresponding to the media presentation the order in which the media of the media presentation is presented to the user.***

Applicants respectfully submit that the combination of *Herz* in view of *Arai*, and further in view of *Blonstein*, does not disclose, teach or suggest the emphasized features. On pages 12-13 of the Office Action, the following is asserted:

The combination of *Herz* in view of *Arai* discloses displaying programming on channels in advance of time corresponding to the media presentation (see *Arai* fig. 9) but fails to disclose the claimed wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation the presentation order of the media corresponding to the media presentation defined by the user.

*Office Action, pages 12-13. (Underline in original.)*

It is further asserted that:

... *Blonstein* teaches a TV graphical EPG system which provides customized lists of programming. *Blonstein* teaches providing favorite list of channels where in the TV GUI allows TV channels to be put in a customized list in order of their priority established by the user.

*Office Action, page 13.*

Applicants respectfully disagree with this characterization of *Blonstein*.

A prioritized list of favorite channels is not the same as a customized list of programming. In the Abstract of *Blonstein*, the following is recited:

A TV graphical user interface (GUI) is provided in a satellite TV system to enable users to create customized channel lists.

*Blonstein* further recites:

The oval indicator 816 shows that the channel changes 800 in FIG. 16 represents the favorite list or TV channels.

*Column 12, lines 48-59.*

And still further, *Blonstein* recites:

... the TV GUI allows TV channels to be put in a customized list in order of their priority established by the user. For example, the most favorable channels may be placed at the top of a favorite list.

*Column 12, lines 54-58.*

Applicants respectfully submit that a customized or prioritized channel list is not the same as a ***presentation order*** of the media corresponding to the media presentation anymore than a favorite list of movies, songs or TV shows is a ***presentation order*** of the media corresponding the media presentation. Applicants further submit that the favorite list that is prioritized in *Blonstein* is not a ***presentation order*** as required by independent claim 26. Thus, prioritizing a list of favorite channels is not the same as prioritizing a ***presentation order*** of the media corresponding to the media presentation.

Even if, assuming *arguendo*, the combination of *Herz* and *Arai* discloses displaying programming on channels in advance of time corresponding to the media presentation, and even if, assuming *arguendo*, *Blonstein* teaches providing a favorite list of channels to be put in a customized list in order of user established priority, the combination of *Herz*, *Arai*, and *Blonstein* fail to disclose, teach or suggest ***providing at least one of the plurality of the screen displays for enabling the user to prioritize in advance of a time corresponding to the media presentation the order in which the media of the media presentation is presented to the user***, as recited in independent claim 26. Applicants respectfully request that the rejection to independent claim 26 be withdrawn.

Because independent claim 26 is allowable over the proposed combination, dependent claims 28-31 and 33-38 are allowable as a matter of law for at least the reason

that the dependent claims 28-31 and 33-38 contain all elements of the respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Claims 11-13 and 34-35**

As explained above, *Herz* in view of *Arai* fail to disclose, teach or suggest the above-described claim features of independent claims 1 and 26. Because claims 11-13 and 34-35 contain the features of independent claims 1 and 26, respectively, it is respectfully submitted that *Herz* in view of *Arai* fail to disclose, teach or suggest the features of claims 11-13 and 34-35. Because *Maze* does not remedy these deficiencies, Applicants respectfully request that the rejections to claims 11-13 and 34-35 be withdrawn.

In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over the proposed combination of references and that the rejection of these claims should be withdrawn.

#### **Claim 23**

As explained above, *Herz* and *Arai* fail to disclose, teach or suggest the above-described claim features of independent claim 1. Because claim 23 contains the features of independent claim 1, it is respectfully submitted that *Herz* in view of *Arai* fails to disclose, teach or suggest the features of claim 23. Because *Tanaka* does not remedy these deficiencies, Applicants respectfully request that the rejection to claim 23 be withdrawn.

In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that claim 23 is patentable over the proposed combination of references and that the rejection of claim 23 be withdrawn.

#### **Claim 24**

As explained above, *Herz* and *Arai* fail to disclose, teach or suggest the above-described claim features of independent claim 1. Because claim 24 contains the features of independent claim 1, it is respectfully submitted that *Herz* in view of *Arai* fails to disclose,

teach or suggest the features of claim 24. Because *Inoue* does not remedy these deficiencies, Applicants respectfully request that the rejection to claim 24 be withdrawn.

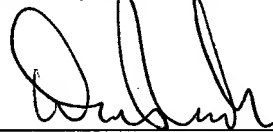
In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that claim 24 is patentable over the proposed combination of references and that the rejection of claim 24 be withdrawn.



**CONCLUSION**

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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